

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 **INSTRUCTIONS FOR FILING A COMPLAINT BY A PRISONER**
4 **UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983**

5 **I. 42 U.S.C. § 1983**

6 You may file an action under 42 U.S.C. § 1983 to challenge federal constitutional or
7 statutory violations by state actors which affect the conditions of your confinement.

8 A § 1983 action may not be used to challenge the length of your sentence or the validity
9 of your conviction. Such claims must be addressed in a petition for a writ of habeas corpus, on
the correct forms provided by the clerk of the court.

10 **II. Filing a § 1983 Action**

11 To file a § 1983 action, you must submit: (1) an original complaint and (2) a check or
money order for \$400.00 or an original Prisoner's In Forma Pauperis Application.

12 This packet includes a complaint form and a Prisoner's In Forma Pauperis Application.
13 When these forms are fully completed, mail the originals to:

14 Clerk's Office
15 United States District Court
Northern District of California
450 Golden Gate Avenue Box 36060
San Francisco, CA 94102

16 **III. Filing Fees**

17 The fee for filing a § 1983 action is \$400.00 (\$350 filing fee plus \$50 administrative fee),
18 to be paid at the time of filing. If you are unable to pay the full fee when you file your complaint,
19 you may petition the court to proceed in forma pauperis, using the Prisoner's In Forma Pauperis
Application in this packet. Even if you are granted leave to proceed in forma pauperis, you must
20 still pay the \$350 filing fee (not the \$50 administrative fee), but the filing fee will be paid in
several installments.

21 You must fully complete the Prisoner's In Forma Pauperis Application and sign and
22 declare under penalty of perjury that the facts stated therein are true and correct. Each plaintiff
must submit his or her own Prisoner's In Forma Pauperis Application. You must use the
23 Prisoner's In Forma Pauperis Application provided with this packet and not any other version.

24 **IV. Complaint Form**

25 You must complete the entire complaint form. All questions must be answered in order
26 for your action to proceed. Your responses must be typewritten or legibly handwritten and you
must sign and declare under penalty of perjury that the facts stated in the complaint are true and
correct.

27 Under 42 U.S.C. § 1997e, you are required to exhaust available administrative remedies
28 before filing a § 1983 action; you must indicate clearly in the space provided on the complaint
form whether you have done so.

1 **V. Consent to Magistrate Judge Jurisdiction**

2 In order to encourage the just, speedy and inexpensive determination of § 1983 cases
3 filed in this district, the parties may waive their right to proceed before a district judge and
4 consent to proceed before a magistrate judge for all purposes. In accordance with 28 U.S.C. §
5 636(c), upon the consent of all the parties to proceed before a magistrate judge for all purposes,
6 the magistrate judge assigned to this case will conduct all proceedings, decide all dispositive and
7 non-dispositive matters, and order the entry of the final judgment. The party who does not
8 prevail may appeal directly to the Ninth Circuit Court of Appeals in the same manner as an
9 appeal from the final judgment of a district judge.

10 Magistrate judges are selected through a statutorily prescribed merit selection process
11 and are appointed by the judges of this court. The court encourages the parties to consent to
12 magistrate judge jurisdiction as it may result in an earlier resolution of the matter. Because of
13 different calendar pressures, magistrate judges may be able to set hearings and trials sooner than
14 district judges. But you are free to decline consent to magistrate judge jurisdiction. Please
15 indicate on the last page of the complaint form whether you consent or decline to consent to
16 magistrate judge jurisdiction.

17 **VI. After Complaint Is Filed**

18 You will be notified as soon as the court issues any order in your case. It is your
19 responsibility to keep the court informed of any changes of address to ensure you receive court
20 orders. Failure to so do may result in dismissal of your action.

21 **VII. Repeat Filers**

22 If you are seeking leave to proceed in forma pauperis and, while incarcerated or detained,
23 you have filed § 1983 actions on three or more prior occasions which were dismissed as
24 frivolous, malicious, or for failure to state a claim upon which relief may be granted, you may
25 not file a new § 1983 action unless you are under imminent danger of serious physical injury. 28
26 U.S.C. § 1915(g).

27 **VIII. Inquiries and Copying Requests**

28 Because of the large volume of cases filed by inmates in this court and very limited court
resources, the court cannot answer questions concerning the status of your case or provide copies
of documents, except at a charge of fifty cents (\$0.50) per page. You should keep a copy of each
document submitted to the court for your own records.

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Name: _____
(Last) (First) (Middle)

Prisoner Number: _____

Institutional Address: _____

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

(Enter your full name.)

vs.

(Enter the full name(s) of the defendant(s) in this action.)

Case No. _____
(Leave blank; to be provided by Clerk of Court)

**COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C. § 1983**

I. Exhaustion of Administrative Remedies.

Note: You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

A. Place of present confinement _____

B. Is there a grievance procedure in this institution? **YES** ☐ **NO** ☐

C. If so, did you present the facts in your complaint for review through the grievance procedure? **YES** ☐ **NO** ☐

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue any available level of appeal, explain why.

1. Informal appeal: _____

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2. First formal level: _____

3. Second formal level: _____

4. Third formal level: _____

E. Is the last level to which you appealed the highest level of appeal available to you?
YES ☐ **NO** ☐
F. If you did not present your claim for review through the grievance procedure, explain why.

II. Parties.

A. Write your name and present address. Do the same for additional plaintiffs, if any.

B. For each defendant, provide full name, official position and place of employment.

1 **III. Statement of Claim.**

2 State briefly the facts of your case. Be sure to describe how each defendant is involved and
3 to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If
4 you have more than one claim, each claim should be set forth in a separate numbered paragraph.

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16 **IV. Relief.**

17 Your complaint must include a request for specific relief. State briefly exactly what you
18 want the court to do for you. Do not make legal arguments and do not cite any cases or statutes.

19 _____

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24 **I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.**

25 Signed this ____ day of _____, 20____

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27 _____

28 *(Plaintiff's signature)*

Please continue to the next page.

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MAGISTRATE JUDGE JURISDICTION

Please indicate below by checking **one** of the two boxes whether you choose to consent or decline to consent to magistrate judge jurisdiction in this matter. Sign this form below your selection.

☐ **Consent to Magistrate Judge Jurisdiction**

In accordance with the provisions of 28 U.S.C. § 636(c), I voluntarily **consent** to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment.

OR

☐ **Decline Magistrate Judge Jurisdiction**

In accordance with the provisions of 28 U.S.C. § 636(c), I **decline** to have a United States magistrate judge conduct all further proceedings in this case, including trial and entry of final judgment.

Signed this ____ day of _____, 20__

(Plaintiff's signature)

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 **INSTRUCTIONS FOR PRISONER'S**
4 **IN FORMA PAUPERIS APPLICATION**

5 You must submit to the court a completed Prisoner's In Forma Pauperis Application if
6 you are unable to pay the entire filing fee at the time you file your complaint or petition. Your
7 application must include copies of the prisoner trust account statement showing transactions for
the last six months and a certificate of funds in prisoner's account, signed by an authorized
officer of the institution.

8 **A. Non-habeas Civil Actions**

9 The fee for filing any civil action other than a petition for a writ of habeas corpus is
\$400.00 (\$350 filing fee plus \$50 administrative fee). Even if you are granted leave to proceed in
10 forma pauperis, you must still pay the \$350 filing fee (not the \$50 administrative fee), but the
filing fee will be paid in several installments. 28 U.S.C. § 1915.

11 You must pay an initial partial filing fee of 20 percent of the greater of (a) the average
12 monthly deposits to your account for the 6-month period immediately before the complaint was
filed or (b) the average monthly balance in your account for the 6-month period immediately
13 before the complaint was filed. The court will use the information provided on the certificate of
funds and the trust account statement to determine the filing fee immediately due and will send
14 instructions to you and the prison trust account office for payment if in forma pauperis status is
granted.

15 After the initial partial filing fee is paid, your prison's trust account office will forward to
16 the court each month 20 percent of the most recent month's income to your prison trust account,
to the extent the account balance exceeds ten dollars (\$10.00). Monthly payments will be
17 required until the full filing fee is paid. If you have no funds over ten dollars (\$10.00) in your
account, you will not be required to pay part of the filing fee that month.

18 **If your application to proceed in forma pauperis is granted, you will be liable for the**
19 **full \$350.00 filing fee even if your civil action is dismissed. That means the court will**
20 **continue to collect payments until the entire filing fee is paid.**

21 **B. Habeas Actions**

22 The fee for filing a petition for a writ of habeas corpus is \$5.00 (\$5 filing fee plus \$0
administrative fee). If you are granted leave to proceed in forma pauperis, you will not be
23 required to pay any portion of this fee. If you are not granted leave to proceed in forma pauperis,
you must pay the fee in one payment and not in installments.

24 **If you use a habeas form to file a non-habeas civil action, you will be required to pay**
25 **the fee applicable to all non-habeas civil actions.**

1
2 **UNITED STATES DISTRICT COURT**
3 **NORTHERN DISTRICT OF CALIFORNIA**
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7 vs.
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Plaintiff,

Defendant.
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CASE NO. _____

**PRISONER'S
APPLICATION TO PROCEED
IN FORMA PAUPERIS**

11 I, _____, declare under penalty of perjury that I am the plaintiff
12 in the above entitled case and that the information I offer throughout this application is true and
13 correct. I offer this application in support of my request to proceed without being required to
14 prepay the full amount of fees and costs or give security. I state that because of my poverty I am
15 unable to pay the costs of this action or give security, and that I believe that I am entitled to
16 relief.

17 **IN SUPPORT OF THIS APPLICATION, I PROVIDE THE FOLLOWING INFORMATION:**

18 **1. Are you presently employed? YES ☐ NO ☐**

19 If your answer is "yes," state both your gross and net salary or wages per month, and give the
20 name and address of your employer:

21 Gross: _____ Net: _____

22 Employer (name and address): _____
23 _____

24 If the answer is "no," state the date of last employment and the amount of the gross and net
25 salary and wages per month which you received. (If you are imprisoned, specify the last place of
26 employment prior to imprisonment.)
27 _____
28 _____

2. Have you received, within the past twelve (12) months, any money from any of the following sources:

- a. Business, profession or self employment? YES ☐ NO ☐
- b. Income from stocks, bonds or royalties? YES ☐ NO ☐
- c. Rent payments? YES ☐ NO ☐
- d. Pensions, annuities or life insurance payments? YES ☐ NO ☐
- e. Federal or state welfare payments, Social Security or other government source? YES ☐ NO ☐

If the answer is "yes" to any of the above, describe each source of money and state the amount received from each.

3. Are you married? YES ☐ NO ☐

Spouse's Full Name: _____

Spouse's Place of Employment: _____

Spouse's Monthly Salary, Wages or Income:

Gross \$ _____ Net \$ _____

4. a. List amount you contribute to your spouse's support: \$ _____

- b. List the persons other than your spouse who are dependent upon you for support and indicate how much you contribute toward their support. (NOTE: For minor children, list only their initials and ages. Do not include their names.)

5. Do you own or are you buying a home? YES ☐ NO ☐

Estimated Market Value: \$ _____ Amount of Mortgage: \$ _____

6. Do you own an automobile? YES ☐ NO ☐

Make _____ Year _____ Model _____

Is it financed? Yes _____ No _____ If so, Total due: \$ _____

Monthly Payment: \$ _____

1 **7.** Do you have a bank account? **YES** ☐ **NO** ☐

2 Name(s) and address(es) of bank (do not include account numbers): _____

3 _____

4 _____

5 Present balance(s): \$ _____

6 Do you own any cash? **YES** ☐ **NO** ☐ Amount: \$ _____

7 Do you have any other assets? **YES** ☐ **NO** ☐

8 If "yes," provide a description of each asset and its estimated market value.

9 _____

10 _____

11 **8.** What are your monthly expenses?

12 Rent: \$ _____ Utilities: _____

13 Food: \$ _____ Clothing: _____

14 **9.** Do you have any charge accounts/credit cards? **YES** ☐ **NO** ☐

15 If yes, list them below. (Do not include account numbers.)

16 Name of Account Monthly Payment Total Owed on This Acct.

17 _____ \$ _____ \$ _____

18 _____ \$ _____ \$ _____

19 _____ \$ _____ \$ _____

20 **10.** Do you have any other debts? (List current obligations, indicating amounts and to whom
21 they are payable. Do not include account numbers.)

22 _____

23 _____

24 **11.** Does the complaint you are seeking to file raise claims that have been presented in other
25 lawsuits? **YES** ☐ **NO** ☐

26 If so, please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court
27 in which they were filed.

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I consent to prison officials withdrawing from my trust account and paying to the court the initial partial filing fee and all installment payments required by the court.

I declare under the penalty of perjury that the foregoing is true and correct and understand that a false statement herein may result in the dismissal of my claims.

DATE

SIGNATURE OF APPLICANT

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Case Number: _____

CERTIFICATE OF FUNDS
IN
PRISONER'S ACCOUNT

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of _____ for the last six months
(Prisoner's name)
_____ where (s)he is confined.
(Name of Institution)

I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$ _____ and the average balance in the prisoner's account each month for the most recent 6-month period was \$ _____.

Dated: _____, 20__ Print Name: _____
Signature: _____
Authorized Officer of the Institution